

Remarks/Arguments

I. Status of the Claims:

Claims 31 – 36, 51, 54, 60 – 62, 66, 69 – 76 and 80 – 83 stand rejected. Claims 31, 54, 60, 69, 70 – 75 and 81 - 83 are presently amended. Claims 84 – 88 are new. No claims are presently cancelled. Claims 31 – 36, 51, 54, 60 – 62, 66, 69 – 76 and 80 – 88 are pending in the case. The newly added claims and the claim amendments are fully supported by the specification as filed and do not add new matter. Entry thereof is respectfully requested.

II. Rejections Under 35 USC §102:

Claims 70-73 and 80 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Int'l Patent Publ. No. WO 95/35505 by Shalon, et al. (hereinafter "Shalon"). Without agreeing with these rejections or acquiescing to the arguments in support thereof, claim 31 and 70 have been amended solely to advance prosecution of the case. Claims 31 and 70 have been amended to recite, in part "a microarray comprising a plurality of discrete locations on a solid surface, wherein the plurality of discrete locations are arranged in a spatially addressable ordered matrix, wherein each discrete location comprises two or more discrete foci of an antibody". Support for this amendment may be found, for example, at least in Fig. 2 - 5 of the specification as filed. Further support for this amendment may be found, for example, in Table 1 and in Example II.

Applicant respectfully submits that Shalon is silent on at least the feature "wherein each discrete location comprises two or more discrete foci of an antibody". Instead, Shalon appears to teach applying only one ligand spot per location. In this regard, Shalon states "As noted above, each well contains a microarray of distinct biopolymers. In one general embodiment, the microarrays in the well are identical arrays of distinct biopolymers, e.g., different sequence polynucleotides. Such arrays can be formed in accordance with the methods described in Section II, by depositing a first selected polynucleotide at the same selected microarray position in each of the cells, then depositing a second polynucleotide at a different microarray position in each well, and so on until a complete, identical microarray is formed in each cell" (Shalon, pg. 25, last paragraph).

In light of the above, Applicant respectfully submits that Shalon fails to teach or suggest the combination of features found in amended claims 31 and 70, or any claims depending therefrom. Accordingly, Applicant submits that the claims are novel over Shalon, and respectfully requests that the anticipation rejection be withdrawn.

III. Rejections Under 35 U.S.C. §103:

Claims 31-33, 36, 51, 54, 60, 61, 66, 69, 74-76 and 81-83 stand rejected under 35 USC §103(a), as allegedly being obvious over Shalon in view of Unlü and further in view of Foster. Claims 34 and 35 stand rejected under 35 USC §103(a), as allegedly being obvious over Shalon in view of Unlü and Foster and further in view of Ragg. Claim 62 stands rejected under 35 USC §103(a), as allegedly being obvious over Shalon in view of Unlü and further in view of Kohler. Without agreeing with these rejections or acquiescing to the arguments in support thereof, Applicant believes that the amendments made to claim 31 and 70 render these rejections moot. Accordingly, Applicant respectfully requests that the obviousness rejections be withdrawn.

CONCLUSION

Applicant hereby respectfully petitions under 37 C.F.R. § 1.136(a) a three (3)-month extension of time for submission of this response and submits the required extension fee via electronic filing. Any additional fees (including but not limited to appropriate petition fees or fees for net addition of claims) are hereby authorized to be charged to our **Deposit Account No. 50-3994**, from which the undersigned is authorized to draw funds.

Respectfully submitted,

/Jonathan P. Aumais/

Jonathan P. Aumais, Ph.D.
Limited Recognition No. L0431
Agent for Applicant
(760) 476-6271

LIFE TECHNOLOGIES CORPORATION

Intellectual Property Department
5781 Van Allen Way
Carlsbad, CA 92008

Date: January 15, 2009